

NO. 5:12-CT-3038-F

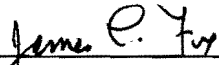
Defendants.

ORDER

A plaintiff may dismiss an action voluntarily, without an order of the court, by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. Fed. R. Civ. P. 41(a)(1)(A)(i). Otherwise, an action shall not be dismissed on the plaintiff's request except upon order of the court. Fed. R. Civ. P. 41(a)(2). Because this matter has not yet been subjected to the review required by 28 U.S.C. § 1915(e), defendants have not been served with the complaint and therefore have not filed an answer or other responsive pleading. Thus, the court will allow the voluntary dismissal.

Accordingly, plaintiff's motion for voluntary dismissal [D.E. # 6] is GRANTED and this action is DISMISSED without prejudice.¹ The court's March 6, 2012, order [D.E. # 5] requiring full payment of the \$350.00 filing fee is VACATED and the funds collected from plaintiff's trust fund account, if any, shall be returned to the account.² The Clerk of Court is DIRECTED to notify the Department of Correction to cease drafting funds from plaintiff's trust account for this case. The Clerk is further DIRECTED to close this case.

SO ORDERED. This the 7th day of May, 2012.



JAMES C. FOX
Senior United States District Judge

¹ In addition to requesting voluntary dismissal, plaintiff requests that the court return all "exhibits and paper work" he filed in conjunction with the complaint. However, the court is unable to return the original pleadings filed by plaintiff, as they are now part of the permanent record of this case.

² The court notes that, as of this point, the docket indicates that no funds have been received from plaintiff's trust account.